

Remarks

This response is provided in reply to an Office Action mailed **December 2, 2005**. Claims 1 and 13 were rejected under 35 U.S.C. § 112, first paragraph, and Claims 1-28 were rejected under 35 U.S.C. §103(a) in view of various combinations of references, as detailed below.

With this response, base claims 1, 13, 19, and 24 and dependent claims 18, 20-23 have been amended to more clearly denote that which Applicant believes to be the invention. Support for the amendments can be found in the original specification, figures and/or claims and, in this regard, no new matter has been introduced.

Claims 1-28 remain pending with this application. In view of the foregoing amendments and subsequent remarks, reconsideration of the application is respectfully requested.

35 USC § 112 Rejection of Claims 1 and 13

In **paragraph II** of the Action, claims 1 and 13 were rejected under 35 U.S.C 112, first paragraph, as failing to comply with the written description requirement. The Action states that the claim limitation "receiving an indication of one or more attributes" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In response, Applicant notes that claims 1 and 13, among others have been amended. As part of the amendment, the language "receiving an indication of one or more attributes," has been removed from the claims. Such amendment overcomes the 112 rejection because the disputed subject matter has been removed from claims 1 and 13. However, such amendment does not necessarily concede the appropriateness of the rejection. The amendment merely more clearly denotes that which Applicant believes to be the invention.

The disputed subject matter "receiving an indication of one ore more attributes" has been removed from amended claims 1 and 13. Accordingly, Applicant respectfully requests that the section 112, first paragraph rejection of such claims be withdrawn.

35 U.S.C. §103 Rejection of Claims 1-28

In **paragraph IV** of the Action, claims 1-5, 11, 13-14, 18-21 and 24-28 were rejected under U.S.C. 103(a) as being unpatentable over patents issued to Thakker (USP 6,487,602) and Johnson, et al. (USP 6,556,826) further in view of Tsoukas (WO 9741654). In response, Applicant has amended base claims 1, 13, 19 and 24 to more clearly denote that which Applicant believes to be the invention.

Regarding claim 1, the Action states that Thakker discloses a method of transmitting a message from a portable communication device (120; fig. 3; col. 4; 7-31, col. 5; 26-65) comprising preparing the message to be transmitted (140a, fig. 3; col. 4; 7-31, col. 5; 26-54).

Amended claim 1 provides the following:

1. preparing the message to be transmitted, *wherein preparing includes receiving a user-generated message;*
associating the message with a user-defined event to specify the conditions upon which transmission of the associated message should occur;
 transmitting the message from the portable communication device upon the occurrence of the user defined event. [Emphasis added]

Amended claim 1 includes a limitation wherein preparing the message to be transmitted includes "preparing the message to be transmitted, wherein preparing includes receiving a *user-generated message*." Support for the amendment can be found in the original specification, figures and/or claims and, in this regard, no new matter has been introduced. **The cited passages from Thakker, Johnson, and Tsoukas at least fail to disclose or suggest a method wherein a user of the portable communication device generates the message that is to be transmitted.**

The cited art from Thakker merely teaches that for purposes of requesting information, the mobile set 20 can transmit a mobile originated short message 140a to the associated number 110 of an application program 205 of a web site 200. A mobile originated short message does not disclose or suggest that a *user* of the portable communication device generate the message as required in amended claim 1. Such language in Thakker (i.e. - mobile originated short message) merely suggests that the message originate from a mobile station. Whether a user is involved to generate the message is not disclosed or suggested in any way. For example, the message in Thakker could automatically originate from a software application within the mobile set. An artisan reading the cited Thakker reference would not be motivated to generate a message wherein the message is generated by a user of the portable communication device without using the pending claim as a model.

The cited Johnson reference likewise fails to disclose or suggest generating a message wherein the message is generated by a user of the portable communication device. The cited Johnson passages merely disclose a user profile to manage information retrieval and delivery (col 2; 23-35) via a network interface system at user defined intervals (col. 3; 54-61). The cited art is limited to describing the advantages of a network including user profiles. Nowhere does it discuss preparing a message, nor does it suggest that the user generate the message as required in claim 1.

The cited Tsoukas passages also fail to disclose or suggest generating a message wherein the message is generated by a user of the portable communication device. The cited passages from Tsoukas describe a method of disseminating information **to** subscribers of a telecommunications network. Thus, the information or messages disclosed in Tsoukas are transmitted to subscribers from a message distribution center. The subscribers or users are not generating the messages themselves. Applicant further notes that the current application contains

claims directed to transmitting a message **from** a portable communication device (where the user can generate a message, for example) as opposed to transmitting a message **to** a subscriber (where the user merely receives a message and does not generate a message) as described and claimed in the cited Tsoukas reference.

The cited passages from Thakker, Johnson, and Tsoukas alone and in combination fail to disclose or suggest all of the limitations of amended claim 1. Specifically, the cited references fail to disclose or suggest at least preparing the message to be transmitted, wherein preparing includes receiving a *user-generated message* as provided in amended claim 1. Accordingly, Applicant respectfully requests that the 103(a) rejection of amended claim 1 be withdrawn.

Applicant notes that amended base claims 13, 19, and 24 enjoy features analogous to those presented above in claim 1, including at least a message generated by a user of a portable communication device. Accordingly, Applicant respectfully submits that claims 13, 19, and 24 are similarly not rendered obvious by the combined references using arguments analogous to those presented above for pending claim 1. As such, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

Applicant further notes that claims 2-12, 14-18, 20-23, and 25-28 depend from base claims 1, 13, 19, and 24, respectively. Thus, in addition to any independent bases for patentability, such claims are likewise not rendered obvious by virtue of at least such dependence on non-obvious base claims 1, 13, 19 and 24, respectively. Accordingly, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

Conclusion

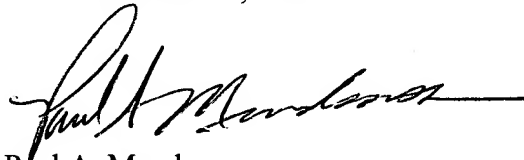
The foregoing is submitted as a full and complete response to the Office Action mailed **December 2, 2005**. In view of the foregoing amendments and remarks, Applicant respectfully submits that pending claims 1-28 are in condition for allowance and a notification of such allowance is respectfully requested.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666.

If the Examiner believes that there are any informalities which can be corrected by an Examiner's amendment, a telephone call to the undersigned at (503) 439-8778 is respectfully solicited.

Respectfully submitted,
Alex D. Starkovich, et al.

Dated: March 2, 2006

A handwritten signature in black ink, appearing to read "Paul A. Mendonsa", written over a horizontal line.

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